

The Hong Kong Polytechnic University

Subject Description Form

Subject Code	AF5506
Subject Title	Legal Aspects of E-Commerce
Credit Value	3
Level	5
Normal Duration	One Semester
Pre-requisite/ Co-requisite/ Exclusion	Nil
Role and Purposes	<p>This subject contributes to the achievement of the outcomes of the 61030 PG Scheme by enabling students to:</p> <p>1) analyse legal issues encountered in developing and managing commercial activities conducted in whole or in part through electronic means (common outcome 1.2); evaluate solutions to problems of developing and managing e-commerce by reference to legal principles and legal reasoning (specific outcome 1.8). 3) appreciate ethical issues involved in e-commerce (common outcome 1.4).</p>
Subject Learning Outcomes	<p>Upon completion of the subject, students will be able to:</p> <ol style="list-style-type: none">Identify legal issues involved in setting up and operating a website in Hong Kong and in the major e-markets (European Union, Unites States, People's Republic of China).Apply legal reasoning to justify solutions to practical legal problems arising in transactions in e-commerce, taking account of alternative arguments. The methodology used is the IRAC methodology, "Issue, Rules, Application/Analysis, Conclusion".Justify solutions to ethical issues arising in transactions in e-commerce.Evaluate in a critical manner the difficulty of governing 'cyberspace'.Find the appropriate and reliable legal information online.

<p>Subject Synopsis/ Indicative Syllabus</p>	<p>Technological aspects of e-commerce</p> <p>The nature of e-commerce; the nature of the internet as a global network of computers transmitting information in electronic formats.</p> <p>Legal responses to aspects of e-commerce</p> <ol style="list-style-type: none"> a. Domain names and trademarks: the tort of ‘passing-off’ and statutory responses to ‘cybersquatting’ and ‘reverse domain name hijacking’. b. Liability for information distributed through a website or server: the tort of defamation; breach of copyright and infringement of a trademark as responses to ‘linking and framing’. c. Protecting information: limitations of tort law; statutory obligations to protect data privacy. d. Criminal liability: legal responses to attacks on the integrity of computer systems and the use of computers to facilitate crime. e. Electronic contracting: formation of valid and enforceable contracts for the sale of goods; software licensing agreements; electronic records and digital signatures; express and implied terms; regulation of unfair contract terms; remedies for breach of contract. f. Dispute resolution issues, including jurisdiction, choice of law, and recognition and enforcement of foreign judgments. <p>Ethical aspects of e-commerce</p> <p>Introduction to ethical theories and ethical practices in business and their application to e-commerce.</p> <p>Governance of ‘cyberspace’</p> <p>The ‘cyberspace fallacy’; modes of regulating ‘cyberspace’; critical assessment of the role of law in constraining e-commerce.</p>
<p>Teaching/Learning Methodology</p>	<p>This subject will be taught through interactive seminars. Students will be referred to readings to be examined prior to the seminar. In the seminar, students will work in small groups on problem-solving activities; present reasoned conclusions to the assigned tasks; discuss topics in a critical manner; give and receive feedback; and reflect upon the learning experience. The tutor will summarise key points and provide guidance for the following seminar.</p> <p>Problem questions align with Outcomes a) and b) by enabling students to develop: the ability to analyze legal rules necessary to pinpoint legal and contractual issues in setting up and operating an internet business; weigh up alternative responses to legal issues arising in electronic contracting; and support conclusions to those issues through processes of legal reasoning. Short case studies in e-business align with Outcome c) by requiring students to confront ethical dilemmas and use relevant ethical theories and practices to justify business decisions in selected areas of e-commerce. Analyses of scholarly articles, international instruments, and court decisions or decisions rendered based on an alternative dispute resolution align with Outcome d) by enabling students to see the structure, grammar, and vocabulary of legal argumentation and apply reasoning skills developed in previous activities to critically evaluate a variety of perspectives on how best to regulate the internet.</p>

Assessment Methods in Alignment with Intended Learning Outcomes	Specific assessment methods/tasks	% weighting	Intended subject learning outcomes to be assessed (Please tick as appropriate)				
			a	b	c	d	e
	Continuous Assessment	50%					
	1. In-Class Group-Activity (resolving a legal case study)	20%	√	√	√	√	√
	2. Individual Essay	30%	√	√	√	√	√
	Final Examination	50%	√	√	√	√	√

Explanation of the appropriateness of the assessment methods in assessing the intended learning outcomes:

Continuous Assessment:

The Individual Essay align with Outcomes a) and b) because in order to solve the problems students will have to relate general categories and specific rules of law to characterize the type of legal problem arising on the particular set of facts, and support conclusions by reference to relevant legal rules and the process of formal legal reasoning.

The In-Class Group Activity consisting in resolving a legal case study aligns with all 4 outcomes by requiring students to show their ability to structure their legal reasoning, to weigh up arguments for and against particular viewpoints and justify their preferred viewpoint by reference to legal criteria, policy considerations and ethical values, theories and practices.

Final Examination:

The Final Examination consists of a combination of multi-faceted problem situations and essay questions. The questions align with Outcomes a) to e) by testing knowledge, skills and values acquired and developed through readings, seminar activities, continuous assessments, and independent research.

Note: To pass this subject, students are required to obtain Grade D or above in BOTH the Continuous Assessment and Examination components. In addition, the specific requirements on individual assessment components discussed above could be adjusted based on the pedagogical needs of subject lecturers.

Student Study Effort Expected	Class contact:	
	▪ Seminars	39 Hrs.
	Other student study effort:	
	▪ In-Class Group Activities	13 Hrs.
	▪ Individual Essay	35 Hrs.
	Total student study effort	81 Hrs.
Reading List and References	<p>Essential reading Lecture notes on specific topics</p> <p>References Students will be referred to a range of different sources including:</p> <ul style="list-style-type: none"> • Law texts. • Scholarly journal articles. • Monographs on specific topics. • Selected court decisions. 	